

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
OFFICE OF THE CLERK**

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NOTICE

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE
SOUTHERN DISTRICT OF INDIANA

The Court has considered the recommendation of the Local Rules Advisory Committee that certain Local Rules be amended, and the Clerk issued a Public Notice on May 27, 2008, regarding the proposed amendments. The Court has considered the proposed amendments and the comments received.

Therefore, pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure, the United States District Court for the Southern District of Indiana hereby gives public notice that the following amendments to the Local Rules of this Court are adopted. Unless otherwise indicated, as seen in this Notice **redline** text is added and **struck** text is deleted.

A. Subparagraphs (a)(1) and (b)(1) Local Rule 5.1 - General Format of Documents Presented for Filing is amended as follows:

(a) Electronic Filings.

(1) Format of Documents Submitted Electronically. Documents submitted via the Court's Electronic Case Filing System under Rule 5.4 must be in PDF (Portable Document Format). Whenever possible, documents shall be converted to PDF directly from a word processing program (e.g., Microsoft Word® or Corel WordPerfect®), rather than created from the scanned image of a paper document. Documents that exist only in paper format may be scanned into PDF for electronic filing. Proposed Orders must not be scanned into PDF, and must always be converted to PDF

directly from a word-processing application. Each PDF file may not exceed an electronic file size of ~~5~~ megabytes (MB). To electronically file a document or attachment that exceeds ~~5~~ MB, the document must first be divided into two or more smaller files (see CM/ECF Policies and Procedures Manual for more information). **With regard to all documents converted from a word processing program, (a) the size of the type in the body of the text shall be no less than 12 point, and in footnotes no less than 10 point, and (b) the margins, left-hand, right-hand, top and bottom, shall each be 1 inch.**

(b) Paper Filings.

(1) Form, Style and Size of Paper Filings. In order that the paper files of the Clerk's office may be kept under the system commonly known as "flat filing," all papers presented to the Clerk or Judge for filing shall be flat and unfolded. All paper filings shall be on white paper of good quality, 8 ½" x 11" in size, and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process, on single-sided paper, and double spaced, except for quoted material. **Where the document is typed or printed, (a) the size of the type in the body of the text shall be no less than 12 point, and in footnotes no less than 10 point, and (b) the margins, left-hand, right-hand, top and bottom, shall each be 1 inch.** Paper filings shall be either stapled in the top left corner or bound in a manner which permits the document to lie reasonably flat when open (e.g., spiral bound), and shall be two-hole punched at the top (but not fastened)(the punches shall be 2 ¾" apart and appropriately centered). Should the nature of the filing be so unusual as to make these methods of fastening infeasible, a party may seek leave of the Court to use a different method. Such leave shall be sought prior to the submission of any filing fastened in any way not conforming to this Rule. The title of each filing must be set out on the first page. Each page shall be numbered consecutively. Any paper filing containing four or more exhibits shall include a separate index identifying and briefly describing each exhibit.

B. Local Rule 6.1 - Extensions of Time is **deleted** in its entirety, and **replaced** with the following:

Local Rule 6.1 - Extensions of Time

(a) Pleadings. In any civil action in which all parties that have appeared are represented by counsel, a party wishing to obtain an initial extension of time not exceeding thirty (30) days within which to file a response to a pleading (as defined by Federal Rule of Civil Procedure 7(a)), must contact counsel for the opposing party and solicit opposing counsel's agreement to the extension. If agreement to an initial extension is obtained (or the party seeking the extension cannot with due diligence reach opposing counsel), and no deadlines established by the case management plan are affected by the initial extension, the extension will become effective upon filing a notice advising of the extension and including, if applicable, a recitation of all attempts to reach opposing counsel.

(b) Written Discovery. In any civil action in which all parties are represented by counsel, a party wishing to obtain an initial extension of time not exceeding thirty (30) days within which to respond to a written request for discovery or request for admission, must contact counsel for the opposing party and solicit opposing counsel's agreement to the extension. If agreement to an extension is obtained and no deadlines established by the case management plan are affected by the initial extension, no further action is necessary for the extension to be effective. Either party may file with the court a notice of such extension. In the event the party seeking the initial extension cannot with due diligence reach opposing counsel, that party must file a notice advising of the extension, including a recitation of all attempts to reach opposing counsel.

(c) Objection to Request. In the event the opposing party objects to a request for extension of time made pursuant to (a) or (b) above, the request for extension will be made by written motion. The motion must recite whether any attempts to obtain agreement were made, and what those attempts were.

(d) Other. Any other request for an extension of time, unless made in open court or at a conference, must be made by written motion.

(e) Pro Se Cases. In any case in which a party is unrepresented, any party's request for an extension of time, unless made in open court or at a conference, must be made by written motion.

(f) Due Dates. Any motion or notice filed pursuant to this Rule must state the original due date and the date to which time is extended.

C. The first paragraph of section (h) of Local Rule 56.1 - Summary Judgment Procedure - is amended as follows:

(h) Notice ~~Requirement for to Pro Se Cases Litigants.~~ **A party moving for summary judgment against an unrepresented party must file and serve a notice that:** ~~If a party is proceeding pro se and an opposing party files a motion for summary judgment, counsel for the moving party must submit a notice to the unrepresented opposing party that:~~

- (1) briefly and plainly states that a fact stated in the moving party's Statement of Material Facts and supported by admissible evidence will be accepted by the Court as true unless the opposing party cites specific admissible evidence contradicting that statement of material fact; and
- (2) sets forth the full text of Fed. R. Civ. P. 56 and S.D. Ind. L.R. 56.1; and
- (3) otherwise complies with applicable case law regarding required notice to pro se litigants opposing summary judgment motions.

D. Rule II - Discipline Imposed by Other Courts - of the Local Rules of Disciplinary Enforcement is amended as follows:

RULE II. DISCIPLINE IMPOSED BY OTHER COURTS

A. Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this Court of such action.

B. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been **publicly** disciplined by another court, **other than by censure or reprimand**, this Court shall forthwith issue a notice directed to the attorney containing:

1. a copy of the judgment or order from the other court; and
2. an order to show cause directing that the attorney inform this Court within 30 days after service of that order upon the attorney, ~~personally or by mail~~, of any claim by the attorney predicated upon the grounds set

forth in (D) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor. **Service of an order to show cause why reciprocal discipline should not be imposed may be served on the attorney personally or by mailing a copy of the order to the attorney at the address he or she last provided to the court. Service by mail is complete upon mailing.**

C. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.

D. Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (B) above, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

1. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
2. that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or
3. that the imposition of the same discipline by this Court would result in grave injustice; or
4. that the misconduct established is deemed by this Court to warrant substantially different discipline.

Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

E. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Court.

F. This Court may at any stage appoint counsel to prosecute the disciplinary proceedings.

E. Rule VIII - Reinstatement - of the Local Rules of Disciplinary Enforcement is amended as follows:

RULE VIII. REINSTATEMENT

A. Automatic Reinstatement. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this Court.

B. Time of Application for Reinstatement Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

C. Reinstatement Following Reciprocal Discipline. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court.

An attorney, who has previously been the subject of reciprocal discipline and subsequent reinstatement by another court and also disbarred or suspended from practice in this court **without provision for automatic reinstatement**, may petition this Court for reinstatement by filing with the Chief Judge a petition for reinstatement together with a certified copy of the judgment or order of the other court granting reinstatement.

Upon receipt of the petition and certified reinstatement judgment or order, the Chief Judge shall promptly review the petition, as well as any findings and conclusions of another court, and recommend to the other judges of this court whether or not in his/her opinion the petition and/or findings of another court sufficiently establish the fitness of petitioner to practice law so that he should be reinstated to the roll of attorneys without further hearing. If, after receiving the recommendations of the Chief Judge, a majority of the judges of the court agree to reinstatement without further evidence or hearing, the Court shall enter a judgment accordingly and the petitioner shall be reinstated. If, on the other hand, after receiving and considering the recommendation of the Chief Judge a majority of the Judges of the Court request additional evidence or hearing prior to making a decision on the petition, a hearing shall be scheduled in accordance with Section D of this Rule.

D. Hearing on Application for Reinstatement. If evidence or argument is required in order to rule on a petition for reinstatement, the Chief Judge shall

promptly refer the petition to the United States Attorney for this district, requesting that he/she or an Assistant United States Attorney serve as counsel for the Court in the reinstatement matter. The Chief Judge shall also assign the matter for prompt hearing before one or more judges of this Court, provided, however, that if the initial disciplinary proceeding which resulted in the attorney's suspension or disbarment was predicated upon the complaint of a judge of this Court the hearing shall be conducted before a panel of three other judges of this Court appointed by the Chief Judge. The judge or judges assigned to the matter shall, within thirty (30) days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

E. Duty of Counsel. In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by the United States Attorney or his assistant.

F. Deposit for Costs of Proceeding. Petitions for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceeding.

G. Disposition of Petition for Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

H. Successive Petitions. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

F. Rule X - Service of Papers and Other Notices - of the **Local Rules of Disciplinary Enforcement** is amended as follows:

RULE X. SERVICE OF PAPERS AND OTHER NOTICES

A. Service of an order to show cause **why reciprocal discipline should not be imposed shall be made by personal service or by mailing a copy of the order to the respondent/attorney at the address he or she last provided to the court. Service by mail of such an order is complete upon mailing.**

B. **Service of any order instituting a an original** formal disciplinary proceeding shall be made ~~by personal service or by registered or certified mail addressed to the respondent-attorney at his last known address.~~ **in accordance with Fed. R. Civ. P. 4(e).**